

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

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TIMOTHY J. RIZZO,

Plaintiff,

v.

CIVIL ACTION No.: 6:15-CV-00557

GLOBALFOUNDRIES, U.S., INC. and
APPLIEDMATERIALS, INC.,

Defendants.

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STATE OF NEW YORK)
) ss:
COUNTY OF SARATOGA)

GREGORY S. MILLS, ESQ., an attorney duly licensed to practice before the Courts of the State of New York, affirms under the penalties of perjury that:

1. I am an attorney at law duly licensed to practice before the Courts of the State of New York and admitted to practice in the United States Supreme Court, the United States court of Appeals for the Second Circuit and the United States District Court for the Northern District of New York, and I am a member of The Mills Law Firm, LLP, attorneys for Plaintiff, Timothy J. Rizzo. As such I am fully familiar with all the relevant facts, circumstances and prior proceedings of the litigation had herein.

2. I make this affirmation in Opposition to Defendants' Motion for Summary Judgment, and submit that same should be denied as a matter of law because: (1) defendants failed to meet their *prima facie* burden on summary judgment of establishing that Mr. Rizzo's exposures at the Globalfoundries site did not cause or contribute to his



diagnosis of ANCA associated vasculitis, and (2) there are material questions of fact that require a trial by jury.

3. For purposes of this motion only, plaintiff adopts the procedural history as set forth in the affidavit of Sharyl A. Reisman, Esq., and hereby incorporates all of the exhibits attached to the motions of Defendants, Globalfoundries U.S., Inc. (hereinafter "Globalfoundries") and Applied Materials, Inc., (hereinafter "Applied Materials").

4. While the statement of procedural history provided by Ms. Reisman is generally accurate, it omits the full August 30, 2016 deposition transcript of Mr. Rizzo's treating physician, Dr. Robert F. Wang, M.D., and the full November 11, 2016 deposition transcript of Dr. Wang. Accordingly, attached hereto as **Exhibit "A"** is a complete copy of the deposition transcript of Dr. Wang's August 30, 2016 deposition, and attached hereto as **Exhibit "B"** is a complete copy of the deposition transcript of Dr. Wang's November 11, 2016 deposition.

5. Similarly, Ms. Reisman omitted the full deposition transcripts of Mr. Rizzo's treating physician Dr. Eli M. Miloslavsky, M.D., Dr. Michael Hodgman, M.D. and Dr. Page V. Salenger, M.D.

6. In addition to the above documents, attached hereto as **Exhibit "C"** is Plaintiff's proposed Second Amended Complaint, which is currently before this Court for consideration.

7. Also relevant to the issue of general causation are the CT Male Associates, P.C. Report dated August 2, 2011, the Chemical Lists, the EPA Superfund Record of Decision EPA: ID NYD98053124 and a printout of the EPA webpage regarding TCE. Accordingly, attached hereto as **Exhibit "D," Exhibit "E," Exhibit "F" and Exhibit "G"** are the above documents respectively.

8. With respect to Plaintiff's Workers' Compensation claim, attached here as **Exhibit "H"** is a letter from John Reinemann from OSHA which suggests that the investigation into the cause of Mr. Rizzo's illness was not completed.

9. Lastly, attached hereto as **Exhibit "I"** are medical records of Mr. Rizzo, which demonstrates that Mr. Rizzo's damages and/or illness are not constrained to ANCA associated vasculitis, but rather reflect that a much larger disease process was occurring as a result of his exposures at the Globalfoundries site.

DATED: January 30, 2017

Respectfully yours,

THE MILLS LAW FIRM, LLP

By: 
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